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Fight the Minotaur in the Tax Labyrinth

by **John Chiang**

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This past September, the Bureau of Jewish Education of Greater Los Angeles, the Zimmer Children's Museum and representatives of more than 70 other organizations attended a seminar for nonprofits that I conducted at The Jewish Federation of Greater Los Angeles.

Like many taxpayers, nonprofit organizations need guidance to comprehend the labyrinth of federal and state tax laws. With the exception of accountants and attorneys, few people absorb the millions of words that make up state and federal tax codes, including rules and regulations. In addition, many nonprofits cannot afford the expense of maintaining counsel to steer them through the thicket of tax laws.

To facilitate seminars that provide vital tax information to nonprofits, I enlist experienced speakers from various federal, state and local agencies to break down our complex tax system into easily understood component parts. At The Federation seminar, experts discussed provisions of the state and federal tax codes that apply to nonprofit organizations, as well as laws that specifically govern their activities.

A Rabbi who attended the meeting was unaware that an exemption from sales tax exists for sales of meals and food products furnished or served by any religious organization at a social gathering it hosts. To his delight, the rabbi discovered that the synagogue was eligible for a refund of hundreds of dollars of sales tax reimbursement paid to several restaurants (Revenue & Taxation Code, Section 6363.5).

Marina Arevalo-Martinez, an accountant at the Hollywood Sunset Free Clinic, took a particular interest in raffles. She heard one presenter say that under Penal Code Section 320.5 "no eligible organization can hold a raffle unless it has registered with the [state] attorney general's office to hold raffles." Arevalo-Martinez also learned that an eligible organization must use at least 90 percent of all gross receipts from raffle ticket sales for charitable or beneficial purposes.

The Hollywood Sunset Free Clinic constantly looks for ways to raise money, and Arevalo-Martinez said the information will enable the agency to sponsor raffles while adhering to the letter of the law.

Federation President John Fishel said, "The seminar provided the staff of The Jewish Federation and the staff of our affiliated agencies with vital information on reporting and compliance".

But the reality is that in today's fast-paced environment not every nonprofit organization or charitable contributor has the time to attend a seminar. With this in mind, here are some tax tips from the Board of Equalization and the Franchise Tax Board you might find useful.

Franchise and Income Tax Tips for Donors

- Confirm that the recipient of your gift is a valid charity before you give. You can do so by looking up the charity on the IRS Website (www.irs.gov).

- Obtain an independent appraisal of your gift prior to donation.
- Keep documentation that confirms the value of a charitable gift.
- Remember that the charitable deduction for a personal income tax year is limited to not more than 50 percent of your adjusted gross income. California law conforms to federal law concerning the limitation percentages applied to gifts donated to different charitable organizations.

Sales and Use Tax Tips and Other Information:

- Qualified nonprofit organizations that use their property exclusively for religious or charitable purposes can claim exemption from property taxes. However, that exemption does not apply to other property-related fees or charges that may appear on the property tax bill.
- Qualified charities or religious and other tax-exempt organizations are eligible to conduct legal raffles but may be subject to certain limitations, reporting requirements and pre-registration with the Attorney General's Registry of Charitable Trusts.
- Sales of food, meals or beverages are generally taxable when the food product is sold ready to eat or within a place where admission is charged. Examples include movie theaters, Dodger Stadium and Disneyland.
- The sale or purchase of works of art for permanent collections on public display is exempt from sales and use tax if purchased by a nonprofit organization operating a public museum under contract with a government entity.
- Likely taxable activities include food sales, auctions, rummage sales, bazaars, carnival booths or

community events. Vending machine sales are also taxable. Generally, the sales tax is triggered whenever tangible personal property is sold. An example would be a restaurant where food sales are taxable.

- Likely nontaxable sales of meals and food products include meals delivered to elderly and disabled persons; meals served to low-income elderly persons; meals and food sold to students by schools or qualified persons at schools; and meals, food, and beverages furnished by social or fraternal organizations.
- Fundraising dinners are taxable — unless sold or furnished by a religious organization. If a dinner is taxable, generally the person serving the meals is responsible for the tax. For example, if a caterer is serving the food, he or she is the retailer and responsible for the tax.

Finally, always keep in mind that although some organizations are exempt from federal and state income tax, there is no similar general exemption from California sales and use taxes. These entities are treated no differently under the law than any other retailer or seller making sales or purchases of tangible personal property within California. An exemption applies to nonprofit/charitable groups that meet certain specific criteria enumerated under the Revenue and Taxation Code.

For more information, call (213) 239-8506 or visit the California State Board of Equalization's Web site, www.boe.ca.gov, which features sales and tax rates by county, frequently asked questions, a list of publications, and an online tutorial for Sales and Use Tax.

John Chiang is chair of the California State Board of Equalization and Member of the Franchise Tax Board.

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